



# Wyoming Department of Agriculture

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September 29, 2005

Bill DiRienzo  
Wyoming DEQ/WQD  
Herschler Building, 4<sup>th</sup> Floor West  
122 W. 25<sup>th</sup> St.  
Cheyenne, WY 82002

Dear Mr. DiRienzo:

Following are the comments from the Wyoming Department of Agriculture (WDA) on the Draft of Proposed Rules, Water Quality Rules and Regulations—Chapter 1, and the Implementation Policies for Use Attainability Analysis (UAA).

Our comments are specific to our mission within state government which is to be dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As this proposal will have major impacts upon our agriculture industry, our natural resources and the welfare of our citizens, we believe it's important that we be kept informed of proposed actions and decisions and that we continue to be provided the opportunity to express pertinent issues and concerns.

We appreciate the opportunity to review the second draft of both Chapter 1 Rules and Regulations and the Implementation Policies for UAA. We see the positive efforts the Department of Environmental Quality (DEQ) has made to include our previous comments and to make the two documents as useful as possible. We believe the latest draft has made the main objective of protecting human health obtainable.

Following are our specific comments.

- Net Environmental Benefit (NEB): The change from "instream flow" to "augmented flow" is good to alleviate any confusion with instream flow as it related to water rights and potential legislative action.
- Primary Contact Recreation: The definition for primary contact recreation as added, is appropriate, but please consider the following. Environmental groups could bias or misuse the definition of "ingestion" to file frivolous lawsuits based on minute water qualities that realistically could not pose a health hazard. The intention of "ingestion" or "immersion" is to cover swimmers, kayakers, and anglers who may swallow a large enough quantity to cause illness. A quantity level must accompany this definition. Moreover, DEQ must read between the lines in Chapter 1 and draw out all possible words or definitions, which will probably result in future lawsuits.

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- Secondary Contact Recreation: The removal of “body” is appropriate to stay consistent with the primary contact recreation definition. We agree with the removal of specific recreational activities to define secondary contact recreation with water ingestion or immersion.
- Class 4C: The changes to more specifically represent Class 4C water as amended better represents the waters petitioned for reclassification from higher classes on the UAA.
- Section 27. E.coli Bacteria (a) Primary Contact Recreation: The inclusion of “summer” recreation for E.coli concentrations is a positive addition. We also support the redefinition of listing all waters from Table A for designation as primary contact recreation. However, we still believe there will be a large number of UAAs filed seeking secondary contact recreation, and we have a concern the backlog may cause difficulties in streams remaining as primary contact status.
- III. Primary Use Factors Checklist: The expansion and clarification on the checklist for primary use factors is much clearer. We believe this will differentiate between primary contact and secondary contact recreation waters for those who will be filing the UAAs.

We strongly support DEQ in creating the final Chapter 1 and UAA documents. We believe the latest update is a positive step and look forward to working with DEQ, Wyoming Association of Conservation Districts, and private landowners to place waters in their appropriate classification, whether it is primary or secondary contact recreation. Thank you for the opportunity to comment. We look forward to reviewing the final drafts.

Sincerely,



John Etchepare  
Director

JE/jw

Cc: Governor's Planning Office  
Wyoming Stock Growers Association  
Wyoming Wool Growers Association  
Rocky Mountain Farmers Union  
Wyoming Association of Conservation Districts  
Wyoming Farm Bureau Federation  
Wyoming State Grazing Board